

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	4:04CR3128
v.	)	
	)	
MARK R. SCHNEIDER,	)	
	)	MEMORANDUM AND ORDER
Defendant.	)	
_____	)	

A hearing was held before me May 27, 2005 on determining the defendant's competence to stand trial. Evidence was adduced, but defendant's counsel requested additional time to obtain a psychiatric evaluation from the Federal Bureau of Prisons or at least to learn whether such an evaluation was conducted. Plaintiff had no objection. Accordingly,

IT THEREFORE HEREBY IS ORDERED:

1. The record in this proceeding is held open for a period of two weeks or until defendant's counsel has learned there is no such report, whichever first occurs.

2. Following the receipt of the additional report, if any, counsel are given five working days in which to provide their written arguments by letter to the undersigned.

3. The defendant having waived his right to speedy trial pursuant to 18 U.S.C. 3161, and further because to require the defendant to go to trial before this issue is decided would be a miscarriage of justice, I conclude that the interests of the defendant in properly determining this issue outweighs the interests of the public and the defendant in a speedy trial. Therefore, the time between this date and the date upon which the competency issue is promptly decided shall be excluded from calculation under the Speedy Trial Act.

DATED this 31<sup>st</sup> day of May, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge